

to the obligor at the obligor's risk and expense, either by the bond-approving officer or upon his written order by the depository with which the bonds or notes may be deposited, or, at the direction of the bond-approving officer, collected by the depository and check therefor forwarded to the obligor. In the absence of written application therefor by the obligor, coupons for interest on coupon bonds or notes to which the obligor may be entitled under this part shall remain attached to the bonds or notes deposited, subject to the provisions of this part.

**§ 225.12 Return to obligor of security.**

(a) *Generally.* As soon as security for the performance of the penal bond is no longer necessary, the bonds or notes deposited in lieu of surety or sureties on such penal bond, together with the power of attorney and agreement accompanying such bonds or notes, shall be returned to the obligor by the bond-approving officer, without application therefor from the obligor. The determination of the question whether security is any longer necessary for the performance of the penal bond shall rest with the bond-approving officer.

(b) *Miller Act payment bonds.* If a person who supplied labor or material to a contractor, required by the Miller Act, as amended (40 U.S.C. 270a-d), to give a payment bond to the United States, files with the Comptroller General the application and affidavit provided for in that Act after a default in the performance of a contract covered by that Act, the bond-approving officer shall not return to the contractor-obligor the deposited bonds, notes or any surplus proceeds thereof until the expiration of the time within which such a person may commence suit on the payment bond as provided in the Act, *i.e.*, 1 year after the day on which the last of the labor was performed or material supplied by that person. If suit is instituted within that time, the bond-approving officer shall hold such bonds, notes or proceeds subject to the order of the court having jurisdiction of the suit. If suit is not instituted within that time but the bond-approving officer is on notice of a claim against the contractor-obligor on the basis of his payment bond, the bond-approving officer

shall determine the time at which, and the evidence of settlement of the claim upon which, he will release the bonds, notes or proceeds.

(c) *Claim of United States unaffected.* Nothing in this section shall affect or impair the priority of any claim of the United States against bonds or notes deposited, or any right or remedy granted by the Miller Act or by this part to the United States for default upon any obligation of a penal bond.

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**§ 225.13 Return to obligor; risk of loss.**

Bonds or notes to be returned to the obligor will be forwarded at the obligor's risk and expense, either by the bond-approving officer, or upon his written order by the depository with which the bonds or notes may be deposited, and unless delivered direct to the obligor, will be forwarded, in the absence of other written instructions and remittance to cover expenses, by express, collect, except that registered bonds or notes not assigned in blank or for exchange for coupon bonds or notes may be forwarded by registered mail, uninsured.

**§ 225.14 Withdrawal.**

Any obligor who desires to withdraw a portion only of the bonds or notes deposited, by reason of reduction in liability under the penal bond, shall make written application for such withdrawal to the bond-approving officer, who shall, if he approve such application, return such portion of the bonds or notes to the obligor.

**§ 225.15 Receipt for return.**

Upon the complete or partial return to the obligor of bonds or notes deposited as security under the provisions of this part, the bond-approving officer shall require from the obligor a receipt in duplicate, substantially in Form G, and shall further require the obligor, in case of complete return, to surrender the original receipt on Form A.

**§ 225.16 Penal bonds; form to be used with bonds or notes as security.**

Penal bonds on which bonds or notes are accepted as security in lieu of surety or sureties may be substantially in